

## Pendergast, Jim

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**From:** FRITHSEN, JEFF  
**Sent:** Tuesday, February 26, 2013 12:22 PM  
**To:** Loop, Travis;Borum, Denis  
**Cc:** Deener, Kathleen;Blackburn, Elizabeth;Armitage, Thomas  
**Subject:** WOUS: SAB to post description of Clean Water Protection Rule today  
**Attachments:** OW7b Clean%20Water%20Protection%20Rule%20(SAN%205557)%20SAB%20one%20pager%202-5-13[1].pdf

Note – SAB will be posting the attached description of the Clean Water Protection Rule today, (2/26/2013, not 2/25/2013 as noted below).

This is in preparation for the March 7-8 meeting of the chartered SAB.

At the bottom of the description is a paragraph on the WOUS Connectivity Report.

Jeff

Jeff Frithsen  
USEPA-ORD-NCEA  
703-347-8623 (office phone); (b)(6)

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**From:** Armitage, Thomas  
**Sent:** Tuesday, February 26, 2013 12:07 PM  
**To:** FRITHSEN, JEFF; Evans, David  
**Cc:** Nugent, Angela  
**Subject:**

Jeff and Dave,

FYI. I just wanted to remind you that, as previously indicated in Angela Nugent's February 2<sup>nd</sup> email to Jeff (below), the attached description of the Clean Water Protection Rule is being posted on the SAB website today (2/25/13). This description, indicates that EPA will be submitting the ORD Connectivity report to the SAB for review. The description is being posted on the SAB website in preparation for the March 7-8, 2013 meeting of the chartered SAB.

Tom Armitage

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Hi Jeff,

Tom Armitage from the SAB Staff Office told me that you had requested a copy of the short description of the Clean Water Protection Rule that OW had provided for the SAB's consideration at its upcoming March 7-8, 2013 meeting. At that meeting, the SAB will be considering planned agency actions that have a scientific or technical basis that were published in the December 21, 2012. "Unified (Regulatory) Agenda". The SAB will discuss whether it should provide advice and comment on the adequacy of the scientific and technical basis for EPA actions included in the Agenda.

An EPA work group has been developing an approach to provide the SAB with information needed for its discussion. Sandy Evalenko is the OW representative. She and Tomeka Nelson from OW have provided the attached short description, which has already been sent, along with descriptions of other agency actions, to an SAB Work

Group. We intend to send the compilation of these descriptions to all the chartered SAB members and post them on the SAB website by the end of next week. FYI - Bob Fegley was the ORD rep on the work group and Aditi Prabhu was the OGC rep.

Best,  
Angela

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Angela Nugent, Ph.D.  
Special Assistant/Designated Federal Officer  
EPA Science Advisory Board Staff Office

Mailing Address:  
US.Environmental Protection Agency  
Mailcode 1400R  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Physical Location/Deliveries  
The Science Advisory Board Staff Office  
Ronald Reagan Building  
1300 Pennsylvania Avenue  
Suite 31150  
Washington, DC 20004

Telephone: 202-564-2218; Main Fax: 202-565-2098 Secure Fax: 202-565-2091

Email: [nugent.angela@epa.gov](mailto:nugent.angela@epa.gov)

**Name of action: Clean Water Protection Rule (SAN 5557) RIN: 2040-AF30**

**EPA Office originating action: OW**

**Brief description of action and statement of need for the action:**

After U.S. Supreme Court decisions in *SWANCC* and *Rapanos*, the scope of “waters of the United States” protected under all Clean Water Act (CWA) programs has been an issue of considerable debate and uncertainty. The Act has a single definition for “waters of the U.S.” As a result, these decisions affect the geographic scope of all CWA programs. *SWANCC* and *Rapanos* did not invalidate the current regulatory definition of “waters of the United States.” However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking.

**Timetable:**

NPRM Signature: TBD

Final Signature: Long-Term

**Does the action rely on science that meets the EPA *Peer Review Handbook* definition of "an influential scientific or technical work product" that "has a major impact, involves precedential, novel, and/or controversial issues, or the Agency has a legal and/or statutory obligation to conduct a peer review?"**

Yes, the action relies on science that meets that definition.

**Scientific questions to be addressed and approach:**

EPA’s Office of Research and Development (ORD) has developed a draft report, “*Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence*” that synthesizes the peer-reviewed scientific literature pertaining to biological, chemical, and hydrologic connectivity of waters, and the effects that small streams, wetlands, and open waters have on larger downstream waters such as rivers, lakes, estuaries, and oceans.

This report provides important scientific information for determining what waters fall under federal jurisdiction (that is, what waters are “waters of the U.S.” under the CWA). Findings from this science report will inform the agencies’ efforts to clarify what waters are covered by the CWA in the proposed rule as well as to help improve 404 Program implementation.

**Plans for scientific analyses and peer review:**

The EPA has already decided to submit to the SAB the ORD “*Connectivity*” report. This will include making the document available for public comment, as well as a review by an independent panel of scientists in relevant fields of expertise. Comments received from the panel review and the public will be used to prepare a final draft of the report. No additional materials are anticipated to require SAB review for the Clean Water Protection Rulemaking.